

ORDINANCE NO. 2006 -048

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AMENDING THE 1989 COMPREHENSIVE PLAN AS ADOPTED BY ORDINANCE NO. 89-17, AS AMENDED; AMENDING THE **FUTURE LAND USE ELEMENT** (TO REVISE POLICIES PERTAINING TO MINING & EXCAVATION); AND AMENDING ALL ELEMENTS AS NECESSARY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE 1989 COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on August 31, 1989, the Palm Beach County Board of County Commissioners adopted the 1989 Comprehensive Plan by Ordinance No. 89-17;

WHEREAS, the Palm Beach County Board of County Commissioners amends the 1989 Comprehensive Plan as provided by Chapter 163, Part II, Florida Statutes; and

WHEREAS, the Palm Beach County Board of County Commissioners have initiated amendments to several elements of the Comprehensive Plan in order to promote the health, safety and welfare of the public of Palm Beach County; and

WHEREAS, the Palm Beach County Local Planning Agency conducted its public hearings on June 9 and June 23, 2006 to review the proposed amendments to the Palm Beach County Comprehensive Plan and made recommendations regarding the proposed amendments to the Palm Beach County Board of County Commissioners pursuant to Chapter 163, Part II, Florida Statutes; and

WHEREAS, the Palm Beach County Board of County Commissioners, as the governing body of Palm Beach County, conducted a public hearing pursuant to Chapter 163, Part II, Florida Statutes, on July 19, 2006 to review the recommendations of the Local Planning Agency, whereupon the Board of County Commissioners authorized transmittal of proposed amendments to the Department of Community Affairs for review and comment pursuant to Chapter 163, Part II, Florida Statutes; and

WHEREAS, Palm Beach County received the Department of Community Affairs "Objections, Recommendations, and Comments Report," dated September 29, 2006 which was the Department's written review of the proposed Comprehensive Plan amendments; and

WHEREAS, on November 13, 2006 the Palm Beach County Board of County Commissioners held a public hearing to review the written

1 comments submitted by the Department of Community Affairs and to
2 consider adoption of the amendments.

3 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
4 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

5 Part I. Amendments to the 1989 Comprehensive Plan

6 Amendments to the text of the following Elements of the 1989
7 Comprehensive Plan are hereby adopted and attached to this Ordinance
8 in Exhibit 1:

9 A. Future Land Use Element, to revise policies pertaining to
10 mining & excavation

11 Part II. Repeal of Laws in Conflict

12 All local laws and ordinances applying to the unincorporated area
13 of Palm Beach County in conflict with any provision of this ordinance
14 are hereby repealed to the extent of such conflict.

15 Part III. Severability

16 If any section, paragraph, sentence, clause, phrase, or word of
17 this Ordinance is for any reason held by the Court to be
18 unconstitutional, inoperative or void, such holding shall not affect
19 the remainder of this Ordinance.

20 Part IV. Inclusion in the 1989 Comprehensive Plan

21 The provision of this Ordinance shall become and be made a part
22 of the 1989 Palm Beach County Comprehensive Plan. The Sections of the
23 Ordinance may be renumbered or relettered to accomplish such, and the
24 word "ordinance" may be changed to "section," "article," or any other
25 appropriate word.

26 Part V. Effective Date

27 The effective date of this plan amendment shall be the date a
28 final order is issued by the Department of Community Affairs or
29 Administration Commission finding the amendment in compliance in
30 accordance with Section 163.3184(1)(b), Florida Statutes, whichever is
31 applicable. No development orders, development permits, or land uses
32 dependent on this amendment may be issued or commence before it has
33 become effective. If a final order of noncompliance is issued by the
34 Administration Commission, this amendment may nevertheless be made
35 effective by adoption of a resolution affirming its effective status,

1 a copy of which resolution shall be sent to the Florida Department of
2 Community Affairs, Division of Community Planning, Plan Processing
3 Team. An adopted amendment whose effective date is delayed by law
4 shall be considered part of the adopted plan until determined to be
5 not in compliance by final order of the Administration Commission.
6 Then, it shall no longer be part of the adopted plan unless the local
7 government adopts a resolution affirming its effectiveness in the
8 manner provided by law.

9 **APPROVED AND ADOPTED** by the Board of County Commissioners of Palm
10 Beach County, on the 13 day of November, 2006.

11 ATTEST:
12 SHARON R. BOCK, CLERK &
13 COMPTROLLER

PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY COMMISSIONERS

14 By [Signature]
15 Deputy Clerk

16 [Signature]
17 Addie L. Greene, Vice-Chairperson

18 APPROVED AS TO FORM AND LEGAL SUFFICIENCY

19 [Signature]
20 COUNTY ATTORNEY

21 Filed with the Department of State on the 21st day of
22 November, 2006.

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EXHIBIT 1

A. Future Land Use Element, Mining and Excavation Policy Revisions

REVISIONS: To revise and update. The revisions are numbered below and shown with the added text underlined and the deleted text ~~struck-out~~.

OBJECTIVE 2.3 Mining and Excavation

The County shall regulate mining and excavation activities to ensure that such activities are appropriately located to be compatible with surrounding land uses and conducted in a manner that is environmentally sound and does not adversely impact the health of citizens and the long-term sustainability of regional surface water and groundwater resources, natural systems and agricultural uses. Also, the County shall ensure that reclamation of disturbed areas shall be appropriate and timely.

Policy 2.3-a: *No change. Omitted for brevity*

Policy 2.3-b: *No Change. Omitted for brevity*

Policy 2.3-c: Mining is prohibited in the following future land use designations, however excavation may be permitted in conjunction with implementation of a site development plan:

1. Residential categories, from Rural Residential 5 to High Residential 18;
2. Agricultural Reserve;
3. Parks and Recreation;
4. Institutional and Public Facilities;
5. Conservation categories;
6. Transportation and Utilities;
7. Traditional Town Developments; and,
8. Multiple Land Use.

Policy 2.3-d: Mining and excavation may be permitted in the following future land use designations subject to the Mining and Excavation regulations of the ULDC:

1. ~~Rural Residential, limited to Rural Residential 10 and Rural Residential (20);~~ Within RR10 and RR20, mining may be permitted only for projects undertaken by the State, Federal Government and the South Florida Water Management District (SFWMD) to implement CERP, Acceler8 or water management projects associated with ecosystem restoration, and regional water supply.
2. Commercial categories;
3. Commercial Recreation;
4. Industrial categories; and
5. ~~Special Agriculture; and~~
6. ~~Agricultural Production.~~

Policy 2.3-e: Mining and excavation activities, as applicable, shall be restricted as follows:

1. Within the Residential future land use designations, excavation may be permitted for the development of fill for use on-site or to support the drainage system of the development, provided that only a minimal amount of fill is distributed off-site;
2. ~~Within RR-10 and RR-20, mining is permitted subject to compatibility with adjacent existing land uses. Compatibility, as used here, shall include, but not be limited to, any negative impacts to surrounding land uses with regards to density, intensity, function, air quality, water quality, noise, traffic, aesthetics, vibrations, smoke, odors, radiation, or any other land use conditions. Within RR-10 and RR-20, mining is permitted~~ Within RR10 and RR20, mining may be permitted only for projects undertaken by the South Florida Water Management District (SFWMD) and/or the U.S. Army Corps of Engineers (USACE) to implement CERP,

Acceler8, or water management projects associated with ecosystem restoration, regional water supply for urban and agricultural users or flood protection, on sites where mining projects are approved by the State and/or the USACE as viable alternative technologies for water management— that and prevent cumulative long-term negative impacts on the regional surface water and groundwater resources and natural systems.

3. Within the Agricultural Production Future Land Use designation, mining may be permitted only for projects undertaken by the South Florida Water Management District (SFWMD) and/or the U.S. Army Corps of Engineers (USACE) to implement CERP, Acceler8 support public roadway projects or agricultural activities, or water management projects associated with ecosystem restoration, regional water supply for urban and agricultural users or flood protection, on sites identified where mining projects are certified by the South Florida Water Management District SFWMD and/or the USACE U. S. Army Corps of Engineers where such uses provide as viable alternative technologies for water management— that and prevent cumulative long-term negative impacts on the regional surface water and groundwater resources and natural systems.

4. Within areas zoned Agricultural Residential, excavation may be permitted only for the extraction of fill for use on-site; mining may be permitted only for projects undertaken by the South Florida Water Management District (SFWMD) and/or the U.S. Army Corps of Engineers (USACE) to implement CERP, Acceler8, or water management projects associated with ecosystem restoration, regional water supply for urban and agricultural users or flood protection, on sites where mining projects are approved by the STATE and/or the USACE as viable alternative technologies for water management that prevent cumulative long-term negative impacts on the regional surface water and groundwater resources and natural systems.

5. Within areas zoned Special Agriculture, mining may be allowed to remove excavatable material for use as fill off site. Mining may be permitted only for projects undertaken by the South Florida Water Management District (SFWMD) and/or the U.S. Army Corps of Engineers (USACE) to implement CERP, Acceler8, or water management projects associated with ecosystem restoration, regional water supply for urban and agricultural users or flood protection, on sites where mining projects are approved by the STATE and/or the USACE as viable alternative technologies for water management that prevent cumulative long-term negative impacts on the regional surface water and groundwater resources and natural systems.

5. No new mining projects other than those undertaken by or on behalf of the SFWMD, State or Federal agencies shall be permitted in the Everglades Agricultural Area (EAA). The County will readdress this policy after the study called for in FLUE Policy 2.3-g below determines whether mining activities are beneficial or detrimental to natural systems and human health, including surface and ground water resources.

6. Previously approved mining operations located within the AP categories shall be permitted to expand on a case by case basis, provided they provide adequate assurance that demonstrates cumulative long-term impacts on regional surface and groundwater resources, and or natural systems will not be created, as demonstrated by the issuance of applicable permits from local, state and federal agencies with jurisdiction over mining activities

Policy 2.3-f: Mining operations existing and permitted before the adoption of the 1989 Comprehensive Plan shall be exempted from the provisions or requirements of the Plan.

Policy 2.3-g: By 2004 December 1, 2008 the County shall complete a study with input from other agencies with the appropriate expertise that evaluates the long-term cumulative impacts of mining operations on surface waters and groundwater resources and natural systems in the Everglades Agricultural Area. The County will coordinate the study with the FDEP, USACE and affected other agencies.

1. The analysis shall include but not be limited to: long-term geohydrological and geochemical impacts; impacts of groundwater flow and interaction with potential drinking water sources in Lake Okeechobee and the surficial aquifer; adverse impacts in Florida's karst topography; impacts on drinking water sources

and water for the environment from the potential combination of groundwater flow with agricultural runoff; water quality effects, and effects on CERP.

2. The study shall provide recommendations and detailed criteria for evaluating, processing, approving and monitoring mining applications and shall address the long-term cumulative impacts of continued small-scale and large-scale mining activities in the EAA and other sensitive areas in the County. These criteria shall be incorporated into the Comprehensive Plan and the ULDC in the first amendment round available after completion of the study.

REVISIONS: Implementation Section

B. Mining and Excavation

Compatibility provisions. Compatibility as referred to in Objective 2.3 shall include, but not be limited to, any negative impacts to surrounding land uses with regards to density, intensity, function, air quality, water quality, noise, traffic, aesthetics, vibrations, smoke, odors, radiation, or any other land use conditions and any long-term cumulative impacts of small and large mining operations on surface waters and groundwater resources, natural systems and agricultural lands.